

EMERGENCY REGULATION

Register ____, _____ 2007 COMMERCE, COMMUNITY AND ECON. DEV.

3 AAC is amended by adding a new chapter to read:

Chapter 141. Fisheries Revitalization: Southeast Alaska Salmon Marketing Matching Grants.

Section

- 10. Purpose and applicability
- 20. Eligible applicants
- 30. Project eligibility requirements
- 40. Selection of grant recipients
- 50. Type, amount, and duration of grants
- 60. Acceptance of grant offer
- 70. Disbursement of money
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- 900. Definitions

3 AAC 141.010. Purpose and applicability. (a) The purpose of the Alaska salmon marketing grant program, established by this chapter, is to enhance and improve the marketing of wild Alaska salmon harvested in Southeast Alaska by providing grants to in-state salmon processors

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and marketers. This chapter applies, subject to available funding, to the allocation and distribution by the department, to eligible recipient entities through the grant process set out in this chapter, of relief money that the state receives from the Pacific Coastal Salmon Treaty Recovery Fund through the United States Department of Commerce under P.L. 106-113 app. A, title VI, sec. 623(d)(2), 113 Stat. 1501, 1501A-59 (November 29, 1999), as amended by P.L. 106-553 app. B, title VI, sec. 628(b), 114 Stat. 2762, 2762A-108 (December 21, 2000), and under P.L. 107-77, title II, 115 Stat. 748, 775 (November 28, 2001) and P.L. 108-7, title II, 117 Stat. 11, 75 (February 20, 2003) for projects to carry out commercial fisheries-related projects to improve the marketing of fish products from Southeast Alaska. (Eff. ____/____/____, Register ____)

Authority: AS 44.33.020

3 AAC 141.020. Eligible applicants. (a) To be eligible to receive a grant under this chapter, an applicant must have seafood processing operations located in Southeast Alaska and must be

(1) licensed by this state or be a co-applicant for a grant with a co-applicant licensed by this state under AS 43.75.011 for one of the last three salmon seasons prior to the grant opening

(2) in good standing with respect to all tax obligations to the state and be in compliance with all applicable laws.

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(b) To be eligible to receive a mini-grant as described in 3 AAC 141.050(b), in addition to meeting the requirements of (a) of this section, the applicant must meet the small business size standard for business loans and disaster loans set out in 13 C.F.R. 121.301(a), revised as of January 1, 2003, and adopted by reference.

(c) To be eligible to receive a micro-grant as described in 3 AAC 141.050(c), in addition to meeting the requirements of (a) and (b) of this section, the applicant must have no more than 10 full-time equivalent employees. In this subsection, the applicant will be considered to have one full-time equivalent employee for each 2,040 hours worked by hourly employees of the applicant, and one full-time equivalent employee for each 50 hour work week worked by other employees of the applicant, in the calendar year preceding the year of the application. (Eff. ____/____/____, Register ____)

Authority: AS 44.33.020

3 AAC 141.030. Project eligibility requirements. To be eligible to receive a grant under this chapter, a project must be directly associated with marketing wild Alaska salmon products. A project may include promotional activities, familiarization tours, trade shows, related marketing travel, packaging and label design, test product giveaways, and other tasks related to product marketing. Grant money may not be used for indirect administrative services or costs or for debt payments for an existing project. (Eff. ____/____/____, Register ____)

Authority: AS 44.33.020

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3 AAC 141.040. Selection of grant recipients. (a) The department will publish a grant application guide on its Internet web site, and will solicit applications for grants. The department will assign a score to eligible grant applications under each of the following criteria:

(1) up to 15 points, based upon the applicant's organizational structure, experience, history, and personnel, and other factors affecting the applicant's ability to complete the project successfully;

(2) up to 25 points, based upon the proposed project's potential for enhancing and increasing sales and value of wild Alaska salmon, including the project's:

(A) potential for increasing market recognition, appreciation, and acceptance of the product;

(B) clear and prominent identity of the product as wild Alaska salmon; and

(C) employment of identified quality standards and grading procedures;

(3) up to 20 points, based upon the financing structure of the project and the applicant's contribution to the project, including the contribution of a cash match;

(4) up to 40 points, based upon the long-term sustainability of the project and the project's potential to increase and enhance the sales and value of wild Alaska salmon after the grant has been exhausted.

(b) The department will forward the applications, its evaluations, and its scoring calculations to the following for comment:

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(1) the commissioner of fish and game, or the commissioner's designee;

(2) the commissioner of labor and workforce development, or the commissioner's designee;

(3) the fisheries policy advisor in the Office of the Governor.

(c) The commissioner may modify the department's scoring, taking into account any comments received and the commissioner's evaluation of the overall potential of the proposals to further the purposes of this chapter.

(d) Using the rankings under (c) of this section, and subject to 3 AAC 141.060, the commissioner will make a preliminary award determination with respect to each application. The department will notify applicants of the preliminary award determinations by mailed notice, and will post its determinations on its Internet web site.

(e) An applicant whose proposal was rejected or modified in the preliminary award determination may submit to the commissioner a request for reconsideration. The request for reconsideration must be in writing and must be received by the department within 15 calendar days after the department issues notice of the preliminary award determination in accordance with this section. The request for reconsideration must include documentation and discussion in support of the applicant's request. If an applicant needs additional time to respond to the department's decision, the applicant may request an extension of up to 15 additional days to respond by submitting the request in writing to the department within the original 15-day time period. The department will grant the 15-day extension if the applicant shows good cause to the

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department's satisfaction. If granted, the 15-day extension shall be measured from the day the department receives the request.

(f) The commissioner or the commissioner's designee will review a request for reconsideration and may issue a written decision. The commissioner or the commissioner's designee may, in writing, extend the time for a decision by up to 15 days. If a written decision granting reconsideration or extending the time for review of the request is not issued within five days after a request for reconsideration is delivered, the request is considered denied. A decision on a request for reconsideration is final for purposes of judicial review.

(g) Upon completion of the review of all pending requests for reconsideration, the department will publish on its Internet web site its final award determinations. In the final award determinations, the commissioner may decline to award, or may reduce the amount of, a grant that was proposed to be awarded in a preliminary award determination, if reconsideration of another preliminary award determination has altered the availability of money. (Eff.

___/___/___, Register ___)

Authority: AS 44.33.020

3 AAC 141.050. Type, amount, and duration of grants. (a) An eligible applicant may seek a major grant, in any amount, for a project with the potential to enhance and increase the sales and value of wild Alaska salmon in a high-volume or high-value market of regional, national, or international scale.

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(b) An eligible applicant may seek a mini-grant of up to \$200,000 per grantee for a project with the potential to enhance and increase the sales and value of wild Alaska salmon in an emerging, niche, or specialty market. The commissioner will award a mini-grant in an amount greater than \$200,000 if the commissioner determines that a larger award is warranted by the particular merits of the project, considering the merits of other proposals and the availability of appropriations.

(c) An eligible applicant may seek a micro-grant of up to \$25,000 per grantee for a project with the potential to enhance and increase the sales and value of wild Alaska salmon that is directly marketed to a small or emerging customer base. The commissioner will award a micro-grant in an amount greater than \$25,000 if the commissioner determines that a larger award is warranted by the particular merits of the project, considering the merits of other proposals and the availability of appropriations.

(d) The commissioner will award a grant amount smaller than the amount requested by the applicant if the commissioner determines that a smaller award is warranted by the availability of appropriations, the merits of the proposal, or the merits of competing proposals. The commissioner will require the applicant to provide a cash match of up to 50 percent of the project's cost, if the commissioner determines that a cash match is warranted by availability of appropriations, the merits of the proposal, or the merits of competing proposals.

(e) Grant money may not be used to finance expenses incurred more than three years after the date of the award, unless the commissioner finds there is good cause to allow an

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exception. Anticipated project expenses more than three years after the date of the award may not be used to meet cash match requirements. (Eff. ____/____/____, Register ____)

Authority: AS 44.33.020

3 AAC 141.060. Acceptance of grant offer. (a) Upon issuance of a final award determination under 3 AAC 141.040(g) , the department will negotiate with the recipient to develop a grant agreement If the recipient does not enter into a grant agreement satisfactory to the department within 30 days after the final award, the department may consider the award rejected. A recipient of a final award determination does not have a vested right or other entitlement to a grant until a mutually acceptable definitive written agreement is negotiated and is executed by the department.

(b) In a grant agreement, the department will incorporate any audit requirements made applicable by 2 AAC 45.010.

(c) In a grant agreement, the department may require applicants to procure, maintain, and demonstrate liability, hazard, or worker's compensation insurance, may designate required policy limits, and may provide that the state will be an additional insured under a policy.

(d) Grant agreements with corporations or other business entities must be accompanied by a resolution sufficient to bind the applicant to the terms of the agreement. (Eff. ____/____/____, Register ____)

Authority: AS 44.33.020

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3 AAC 141.070. Disbursement of money. (a) Upon request, and if necessary to the financing of a project, the commissioner may designate in a grant award a portion of the grant money that may be advanced to the recipient to finance future expenditures.

(b) Unless an advance has been authorized under (a) of this section, all grant money will be disbursed as reimbursement of qualifying project expenses upon documentation including performance reports, that the expenses have been incurred.

(c) By arrangement in the grant agreement, reimbursement under (b) of this section may be accomplished by direct payment to third-party vendors or contractors providing supplies or services to the project, upon submission of invoices and performance reports to the department.

(Eff. ____/____/____, Register ____)

Authority: AS 44.33.020

3 AAC 141.080. Use of money. (a) Money received under this chapter must be used for the project for which the grant was approved and in accordance with the grant agreement.

(b) Nothing in this chapter relieves a grant recipient from complying with state and federal law. (Eff. ____/____/____, Register ____)

Authority: AS 44.33.020

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3 AAC 141.090. Return of money. Any grant money not used for the approved purpose must be returned to the department. (Eff. ____/____/____, Register ____)

Authority: AS 44.33.020

3 AAC 141.900. Definitions. In this chapter, unless the context requires otherwise, (1) "commercial fisheries" means those fisheries in this state requiring that, in accordance with AS 16, 5 AAC, and 20 AAC 05, a participant hold a commercial fishing permit or license issued by this state;

(2) "commercial fishing" means the catching of finfish, shellfish, or other fishery resources with the intent of disposing of those resources for profit by sale in commercial channels, while holding all required licenses and permits;

(3) "commissioner" means the commissioner of commerce, community and economic development. (Eff. ____/____/____, Register ____)

Authority: AS 44.33.020